

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
McKissick, et al.

Application No.: 09/378,533

Confirmation No.: 9255

Filed: August 20, 1999

Art Unit: 2623

For: ELECTRONIC PROGRAM GUIDE WITH
ADVANCE NOTIFICATION

Examiner: Koenig, Andrew Y.

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Commissioner for Patents
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New York, New York 10036
June 27, 2008

PRE-APPEAL REQUEST FOR REVIEW

Sir:

In response to the final Office Action pending in the above referenced application, Applicants request a panel review of the pending rejections prior to proceeding with the full appeals process. Applicants enclose the requisite Notice of Appeal along with the remarks set forth below.

The application includes 24 claims, four of which (claims 63, 69, 77, and 82) are independent. Claims 63, 66, 67, 69, 70, 74, 75, 77, 79, 80, 82, 84, and 85 stand rejected under 35 U.S.C. 103(a) over the combination of Herz et al. U.S. Patent No. 5,351,075 and Lawler et al. U.S. Patent No. 5,699,107. Claims 64, 68, 71, 72, 76, 78, 81, 83, and 86 stand rejected under 35 U.S.C. § 103(a) over the combination of Herz, Lawler, and Knudson et al. U.S. Patent Application No. 2005/0204388. Claims 65 and 73 stand rejected under 35 U.S.C. § 103(a) over the combination of Herz, Lawler, and Boyer et al. U.S. Patent Application No. 2002/0026496. Applicants respectfully disagree and assert that the above rejections are based on clear errors.

Arguments begin on page 2 of this paper.

I. Because Lawler does not teach or suggest "providing a program-specific availability notification to the user indicating the availability of the program corresponding to the selected program title when the corresponding program is now in the current program listings time frame," the § 103 Rejection of base claims 63, 69, 77, and 82 is based on clear error and should be withdrawn

The Examiner admits that Herz does not provide "a program-specific availability notification to the user indicating the availability of the program corresponding to the selected program title when the corresponding program is now in the current program listings time frame." The Examiner tries to make up for this deficiency using Lawler. See Office Action, page 3.

Lawler, however, discloses providing a program reminder which only indicates that a program is about to begin. For example, Lawler states that, "Once a reminder for a particular program is set, the system monitors the reminder and, shortly before the program is available, informs the user that the program is about to begin." See col. 12, lines 34-37. In contrast, the program-specific availability notification, as recited in base claims 63, 69, 77, and 82, informs the user that a program that was previously outside a program listings time frame is now in the current program listings time frame. More particularly, base claims 63, 69, 77, and 82 recite providing or displaying "a program-specific availability notification to the user indicating the availability of the program corresponding to the selected program title when the corresponding program is now in the current program listings time frame." For example, FIG. 2 of the present invention provides an example of an advertisement 76, e.g., "Blair Witch Project Coming to PPV," for a program that is outside a program listing time frame. When the "Blair Witch Project" program is eventually included in a current program listings time frame, a program-specific availability notification is provided to a user. This type of notification is clearly very different than the program reminder provided by Lawler.

Thus, even if Herz and Lawler were combinable, which applicant disputes, the resulting combination would not be the invention as recited in applicant's base claims 63, 69, 77, and 82. Accordingly, the Examiner has failed to make a prima facie case of obviousness for base claims 63, 69, 77, and 82 and the §103 Rejection of base claims 63, 69, 77, and 82 should be withdrawn.

II. The §103 Rejection of claims 64, 66-68, 70-72, 74-76, 78-81, and 83-86 is based on clear errors and should be withdrawn

Based on the discussion above, applicants' base claims 63, 69, 77, and 82 are allowable. Applicants respectfully submit that Knudson and Boyer do not make up for the deficiencies in Herz and Lawler. Thus, claims 64, 66-68, 70-72, 74-76, 78-81, and 83-86 which depend from, and are limited by base claims 63, 69, 77, and 82 respectively are also allowable. The §103 Rejection of claims 64, 66-68, 70-72, 74-76, 78-81, and 83-86 should therefore be withdrawn.

Applicants believe no fee is due with this response other than as reflected on the enclosed Petition for Extension of Time Transmittal. However, if a fee is due, please charge our Deposit Account No. 06-1075 from which the undersigned is authorized to draw.

Respectfully submitted,

/Baaba Andam/

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